



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

March 8, 2004

By facsimile (406-444-2893) and US Mail

Ms. Linda McCulloch
Superintendent of Public Instruction
Montana Office of Public Instruction
Post Office Box 202501
Helena, Montana 59620-2501

Dear Superintendent McCulloch:

Thank you for your recent letter to Secretary Paige regarding your question about high school science curriculum and differing scientific viewpoints under the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). In particular, you have asked whether the NCLB requires the inclusion of "Intelligent Design" in the science curriculum.

Under the ESEA, each State is required to have challenging science *content* and *achievement* standards in place no later than the 2005-2006 school year, and science assessments no later than the 2007-2008 school year. As you may know and by way of background, the ESEA places clear limitations upon the Federal government with respect to standards. Congress clearly stated that standards—in this case science standards—are not required to be submitted to the Secretary of Education for approval, and that no State shall be required to have its standards approved or certified by the Federal government in order to receive assistance under the ESEA. 20 U.S.C. § 6311(b)(1)(A); 20 U.S.C. § 7907(c)(1).

Further, with respect to science curriculum, the United States Department of Education is prohibited from using funds to endorse, approve, or sanction any curriculum that is designed to be used in an elementary or secondary school. 20 U.S.C. § 7907(b). The law also includes a rule of construction which clearly states that nothing in the ESEA is to be construed as authorizing any officer or employee of the Federal government to mandate, direct, or control a State, local educational agency, or school's curriculum or program of instruction. 20 U.S.C. § 7907(a). Furthermore, both the Department of Education Organization Act and the General Education Provisions Act include a similar, but broader, rule of construction that applies to *all* Department of Education programs, and which protects, among other things, against Federal control over curricula, programs of instruction, textbooks, and instructional materials. 20 U.S.C. §§ 1232a, 3403. Thus,

Congress has been very careful and specific in placing legal limits on the Federal government's involvement in curriculum and related matters.

The NCLB Act does not contain any language that requires or prohibits the teaching of any particular scientific views or theories either as part of a state's science curriculum or otherwise. However, Congress provided the following language in its Conference Report on the NCLB regarding science education (which is commonly referred to as the "Santorum language"):

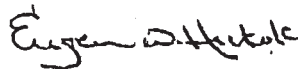
The Conferees recognize that a quality science education should prepare students to distinguish the data and testable theories of science from religious or philosophical claims that are made in the name of science. Where topics are taught that may generate controversy (such as biological evolution), the curriculum should help students to understand the full range of scientific views that exist, why such topics may generate controversy, and how scientific discoveries can profoundly affect society.

This language is based on a Senate Resolution that passed by a vote of 91-8. There was no comparable House resolution.

The Department, of course, embraces the general principles – reflected in the Senate Resolution – of academic freedom and inquiry into scientific views or theories. However, as noted above, we have no authority to control or direct curriculum decisions or State science standards. The NCLB Act does not contain any language that requires or prohibits the teaching of any particular scientific view or theory either as part of a State's science curriculum or otherwise.

I hope this information will assist you in developing science content and achievement standards in your State.

Sincerely,



Gene Hickok
Acting Deputy Secretary